

Internal Revenue Service

P.O. Box 2508
Cincinnati, OH 45201

Department of the Treasury

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Date: **September 7, 2018**

Employer Identification Number:**Contact person - ID number:****Contact telephone number****LEGEND**

UIL: 4945.04-04

B = Name
C = Name
D = Name
E = Name
G = Tests
H = Individuals
J = Individuals
m dollars = Amount
n = Number

Dear :

You asked for advance approval of your employer-related scholarship grant procedures under Internal Revenue Code Section 4945(g). This approval is required because you are a private foundation that is exempt from federal income tax. You requested approval of your scholarship program to fund the education of certain qualifying students.

Our determination

We approved your procedures for awarding employer-related scholarships. Based on the information you submitted, and assuming you will conduct your program as proposed, we determined that your procedures for awarding employer-related scholarships meet the requirements of Code Section 4945(g)(1). As a result, expenditures you make under these procedures won't be taxable.

Also, awards made under these procedures are scholarship or fellowship grants and are not taxable to the recipients if they use them for qualified tuition and related expenses (subject to the limitations provided in Code Section 117(b)).

Description of your request

Your letter indicates you will sponsor scholarships for children of employees of B through C or D scholarship programs.

To be eligible for scholarship awards, applicants must be high school students who are sons or daughters of employees of B. Applicants must also be citizens of the United

States, or be lawful permanent residents thereof (or have applied for permanent residence, the application for which has not been denied) and intend to become U.S. citizens at the earliest opportunity allowed by law.

You will provide up to n scholarships for m dollars per year for up to four years.

For your programs, you entered into an agreement with E to sponsor a specified number of college scholarships for children and/or other relatives of employees of B. E selects individual scholarship recipients through F. The initial phase of F is G, which is given annually at participating high schools by high school officials. Those students scoring within the top one-half of one percent on a state-by-state basis are designated as H; they may advance to the level of J by confirming their scores on a second test, and by submitting an application form that includes a high school record (provided by their high school officials) showing strong academic performance, a personal essay, extra-curricular accomplishments and the recommendation of their high school principal or school official designated by the principal.

E selects students from among those children and/or other relatives of employees who attained the level of J in F to receive scholarships sponsored by B. The probability of attaining the level of J through F (and therefore becoming eligible for a scholarship) is extremely low.

Only those scholarships offered to individuals below the level of J will be counted in determining whether the percentage test of Rev. Proc. 76-47 is met with respect to scholarship awards made under D scholarship program.

Under D scholarship program, if the number of children who qualify as recipients as J is less than the number of scholarships that B agreed to sponsor, E selects scholarship recipients from among high-performing students below the level of J. The number of these recipients is limited to not more than 25% of eligible applicants in accordance with the percentage test of Section 4.08 of Rev. Proc. 76-47.

The selection of individual grant recipients is made by selection committees designated by C. The members of the selection committee are comprised of professionals trained in selection and are independent from B. E confirms the individual scholarship recipient's enrollment at the educational institution, makes payment of the award through the appropriate financial aid office of the educational institution, and supervises and investigates the use of the grant funds by the recipients in their educational program.

The selection committee will choose the scholarship recipients by evaluating each applicant's high school academic record; activities/volunteer service; leadership positions; test scores; the school's recommendation of the candidate; and the student's essay.

Scholarship winners will be chosen on a competitive basis and without regard to family financial circumstances, gender, race, ethnic origin, or religious preference. The

decisions made by E regarding the selection of four-year scholarship recipients and continuation of such four-year scholarships will be made in its sole discretion. Scholarships will only be awarded to students who plan to enroll in an institution that meets the requirements of Section 170(b)(1)(A)(ii) of the Code.

The following items are additional criteria about who may accept and continue to receive the scholarship:

- a. A recipient must enter college in the fall term following their selection and must enroll as a full-time undergraduate in a college or university in the United States that holds accredited status with a regional accrediting commission on higher education.
- b. Scholarship stipends are not payable for attendance at service academies, virtual universities, and certain institutions that are limited in their purposes or training.
- c. The recipient must attend college during the day, enroll in a course of study leading to one of the traditional baccalaureate degrees, and remain in good academic and disciplinary standing.
- d. The college or university must meet the requirements of Section 170(b)(1)(A)(ii) of the Code.
- e. A student awarded this scholarship will not be eligible for any other monetary scholarship awarded by E.

E will supply statistical information on applications received and grants made which will enable you to maintain the records required by Rev. Proc. 76 47. You have agreed that C and D will meet the requirements of Rev. Proc. 76 47, and that awards under D will be in compliance with the 25 percent test of section 4.08 applicable to a program that awards grants to children and/or relatives of employees of a particular employer.

Basis for our determination

The law imposes certain excise taxes on the taxable expenditures of private foundations (Code Section 4945). A taxable expenditure is any amount a private foundation pays as a grant to an individual for travel, study, or other similar purposes. However, a grant that meets all of the following requirements of Code Section 4945(g) is not a taxable expenditure.

- The grant is awarded on an objective and nondiscriminatory basis.
- The IRS approves in advance the procedure for awarding the grant.
- The grant is a scholarship or fellowship subject to Code Section 117(a).
- The grant is to be used for study at an educational organization described in Code Section 170(b)(1)(A)(ii).

Revenue Procedure 76-47, 1976-2 C.B. 670, provides guidelines to determine whether grants a private foundation makes under an employer-related program to employees or children of employees are scholarship or fellowship grants subject to the provisions of Code Section 117(a). If the program satisfies the seven conditions in Sections 4.01

through 4.07 of Revenue Procedure 76-47 and meets the applicable percentage tests described in Section 4.08 of Revenue Procedure 76-47, we will assume the grants are subject to the provisions of Code Section 117(a).

If a private foundation's program satisfies the seven conditions set forth in Sections 4.01 through 4.07 below, but does not meet the percentage test of Section 4.08 applicable to grants to employees' children or to grants to employees, as the case may be, the question whether the grants, awarded to individuals in the category (children or employees) in respect of which the percentage test was not met, are scholarships or fellowship grants subject to the provisions of Section 117(a) of the Code will be determined on the basis of all the facts and circumstances.

Your procedures for awarding scholarships to students designated as J through F are considered to satisfy the "facts and circumstances" test of Rev. Proc. 76-47 because the probability of attaining J level through F (and therefore becoming eligible for a scholarship) is extremely low. Therefore, only those scholarships offered to individuals below the J level under D will be counted in determining whether the percentage test of Rev. Proc. 76-47 is met.

You represented that D will meet the requirements of either the 25 percent or 10 percent percentage test in Revenue Procedure 76-47. These tests require that:

- The number of grants awarded to employees' children in any year won't exceed 25 percent of the number of employees' children who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants, or
- The number of grants awarded to employees' children in any year won't exceed 10 percent of the number of employees' children who were eligible for grants (whether or not they submitted an application), or
- The number of grants awarded to employees in any year won't exceed 10 percent of the number of employees who were eligible for grants, were applicants for grants, and were considered by the selection committee for grants.

You further represented that your procedures for awarding grants will meet the requirements of Revenue Procedure 76-47:

- An independent selection committee whose members are separate from you, your creator, and the employer will select individual grant recipients.
- You will not use grants to recruit employees nor will you end a grant if the employee leaves the employer.
- You will not limit the recipient to a course of study that would particularly benefit you or the employer.

Other conditions that apply to this determination:

- This determination only covers the grant program described above. This approval will apply to succeeding grant programs only if their standards and procedures don't differ significantly from those described in your original request.
- This determination is in effect as long as your procedures comply with Sections 4.01 through 4.07 of Revenue Procedure 76-47 and with either of the percentage tests of Section 4.08 and/or the facts and circumstances test. If you establish another program covering the same individuals, that program must also meet the applicable tests.
- This determination applies only to you. It may not be cited as a precedent.
- You cannot rely on the conclusions in this letter if the facts you provided have changed substantially. You must report any significant changes to your program to the Cincinnati Office of Exempt Organizations at:

Internal Revenue Service
Exempt Organizations Determinations
P.O. Box 2508
Cincinnati, OH 45201

- You cannot award grants to your creators, officers, directors, trustees, foundation managers, or members of selection committees or their relatives.
- All funds distributed to individuals must be made on a charitable basis and further the purposes of your organization. You cannot award grants for a purpose that is inconsistent with Code Section 170(c)(2)(B).
- You should keep adequate records and case histories so that you can substantiate your grant distributions with the IRS if necessary.

Please keep a copy of this letter in your records.

We have sent a copy of this letter to your representative as indicated in your power of attorney.

If you have questions, please contact the person listed at the top of this letter.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements